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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/777,787

02/12/2004

Jean-Pierre Roux

04-14

5413

30030

7590

02/28/2008

JAMES R. WILLIAMS
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EXAMINER

BLANKENSHIP, GREGORY A

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

02/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/777,787	Applicant(s) ROUX ET AL.	
	Examiner GREGORY BLANKENSHIP	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 12/21/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9, 10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/21/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bien (4,973,102).

Bien discloses a fender support (16) for a motor vehicle comprising a lower portion (28) for fixing on at least one rigid part (38) of the vehicle and an upper portion (26) spaced apart from the lower portion and adapted to support a top edge of a fender (14), as shown in Figure 4. The fender (14) has an outside face that is visible on an exterior of the vehicle and an inside face opposite the outside face, as shown in Figure 4. The support (16) holds the top edge of the fender at a distance from the rigid part (38) of the vehicle that is closest to the top edge, as shown in Figure 4. The support has a support sheet comprising support areas (24a,24b,24c,24d) spaced apart from each other and each of which substantially conforms to the inside face of the fender near the top edge, as shown in Figure 4. In reference to claim 12, the support sheet extends over the entire length of the top edge of the fender (14), as shown in Figure 2. In reference to claim 13, the base, the vertical portion of support (16) below support areas (24a,24b,24c,24d) , supports the support areas and the base includes a deformable portion and a breakable portion. All portions of the base are capable of deforming and breaking as broadly claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bien (4,973,102).

Bien does not disclose the claimed spacing of adjacent support areas.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to space adjacent support areas of Bien no more than 65 mm apart to provide adequate support areas to attach the fender in a manner that prevents rattling of the fender.

5. Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bien (4,973,102) in view of Kubota (US2003/0173802).

Bien discloses the support, specifically the support sheet, holding the top edge of the fender at a distance from the rigid part of the vehicle that is closest to the top edge, as shown in Figure 4. However, Bien does not disclose the claimed shape of the deformable and breakable portions of the base.

Kubota teaches forming a base of a fender support having a staircase shape, as shown in Figure 6. The staircase shape inherently forms rupture starters as broadly claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was to form the base of Bien with a staircase shape including rupture starters, as taught by Kubota, to improve safety by providing an energy absorbing structure.

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6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bien (4,973,102) in view of Berger et al. (6,641,191).

Bien discloses fixing clips adapted to secure the rim (18) of the fender to the fender support (16). However, Bien does not disclose a groove that extends the support areas and receives the inwardly-directed rim of the fender.

Berger et al. teach forming a fender support with two vertical members (110,112A) to form a groove between the two vertical members that receives the inwardly-directed rim of a fender (26), as shown in Figure 6.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the fender support of Bien with a second vertical member that is parallel and spaced from the first vertical member, as taught by Berger et al., forming a groove to receive the rim of the fender to facilitate attachment of the fender to the fender support.

Response to Arguments

7. Applicant's arguments filed 12/21/2007 have been fully considered but they are not persuasive. The applicant has argued that Bien (4,973,102) does not disclose a support sheet comprising support areas which substantially conforms to the inside face of the fender. The examiner disagrees because the plastic panel (18) is part of the fender and has an outside face that is visible from the exterior of the vehicle through the gap between the panel (18) and the body frame (10), as shown in Figure 4. The support sheet conforms to the opposite, inside face of the fender near the top edge, as shown in Figure 4. The support sheet supports the entire fender (14), including the top edge of the fender, as broadly claimed.

8. The applicant has argued that Bien does not disclose a base that includes a deformable portion and a breakable portion. The examiner disagrees because the limitations are broad enough

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that any portion of the base that can be deformed or broken can read on this limitation. All portions of the base can be deformed and broken because the entire fender support (16) is made of a thin strip of metal, as disclosed on lines 34-36 of column 5. Metal is both deformable and breakable. The claim limitation does not mention absorbing impact energy, as suggested by the applicant, but would still be anticipated by Bien even if the claim did specify absorbing impact energy because the base is still deformable and breakable.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY BLANKENSHIP whose telephone number is (571)272-6656. The examiner can normally be reached on 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Glenn Dayoan/
Supervisory Patent Examiner, Art Unit
3612

gab
February 20, 2008